Remarks

Claims 1 and 3 – 5 are pending.

Claim 1 has been amended to include the recitations "a predetermined axial force", and "closing the forming tool axially", both of which are supported by paragraph [0033] of the specification.

The rejection of claims 1 and 3-5 as being rejected under 35 USC 103(a) as being unpatentable over Jordan is respectfully traversed for the following: first, Applicant believes that Jordan does not disclose nor make obvious the claims, including the presently added two new limitations. Jordan does not expressly mention "closing their forming tool axially" and this is not inherent also in their disclosure. Similarly, Jordan does not expressly mention applying "a predetermined axial force", let alone any "axial forces" being applied to their tube ends. The examiner therefore appears to assume that Jordan "inherently" applies axial forces, whether being applied by their rod, die (or fluid which they mention could be used but actually do not use). In this respect, MPEP section 2112 iv. states the following:

> "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original) (Applicant's invention was directed to a biaxially oriented, flexible dilation catheter balloon (a tube which expands upon inflation) used, for example, in clearing the blood vessels of heart patients). The examiner applied a U.S. patent to Schjeldahl which disclosed injection molding a tubular preform and then injecting air into the preform to expand it against a mold (blow molding). The reference did not directly state that the end product balloon was biaxially oriented. It did disclose that the balloon was "formed from a thin flexible inelastic, high tensile strength, biaxially oriented synthetic plastic material." *Id.* at 1462 (emphasis in original). The examiner argued that Schjeldahl's balloon was inherently biaxially oriented. The Board reversed on the basis that the examiner did not provide objective evidence or cogent technical reasoning to support the conclusion of inherency).

In this respect, it should be again mentioned that conventional IHU processes only applied a medium under high internal pressure, and as a result were not effective because of leakage of the pressure medium. Applicant's claims address this problem by positively claiming the application of "axial forces" to their tube ends. Jordan is not even aware of this issue. Thus, the mere use of a rod, die (or their speculative use of fluid under pressure) therefore does not necessarily impart "axial forces" at Jordan's tube ends. Similarly, the mere use of a die process by Jordan does not necessarily mean they closed their forming tool axially, particularly since their actual experiment only used a solid rubber rod. Accordingly, these rejections over Jordan should be withdrawn and the claims allowed.

Applicants believe the claims are in condition for allowance and respectfully solicit a Notice of Allowance.

The Commissioner is hereby authorized to charge payment of any fees required associated with this communication or credit any overpayment to Deposit Account No. 50-3881. If an extension of time is required, please consider this a petition therefore and charge any additional fees which may be required to Deposit Account No. 50-3881. A duplicate copy of this paper is enclosed.

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Respectfully submitted,

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